


भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 41] नई दिल्ली, बुधवार, अगस्त 24, 1966/भाद्रा 2, 1888

No. 41] NEW DELHI, WEDNESDAY, AUGUST 24, 1966/BHADRA 2, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 24th August, 1966:—

BILL No. 52 OF 1966

*A Bill to consolidate and amend the law relating to the levy of tax
on sale of goods in Delhi.*

BE it enacted by Parliament in the Seventeenth Year of the
Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Delhi Sales Tax Act, 1966.
 (2) It extends to the whole of the Union territory of Delhi.
 (3) It shall come into force on such date as the Administrator
may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Administrator” means the Administrator of Delhi appointed by the President under article 239 of the Constitution;

(b) “Appellate Tribunal” means the Appellate Tribunal constituted under section 12;

(c) “business” includes—

(i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and

(ii) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(d) “Commissioner” means the Commissioner of Sales Tax appointed under sub-section (1) of section 9;

(e) “dealer” means any person who carries on business of selling goods in Delhi and includes—

(i) the Central Government or any State Government carrying on such business;

(ii) a society (including a co-operative society), club or any association which sells or supplies goods, whether or not in the course of business, to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration;

(iii) a manager, factor, broker, commission agent, *del credere* agent, or any mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who sells goods belonging to any principal whether disclosed or not; and

(iv) an auctioneer who sells or auctions goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(f) “Delhi” means the Union territory of Delhi;

(g) “goods” includes all materials, articles, commodities and all other kinds of movable property, but does not include newspapers, actionable claims, stocks, shares, securities or money;

(h) "manufacture", with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;

5 (i) "Official Gazette" means the Official Gazette of Delhi;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "registered" means registered under this Act;

10 (l) "sale", with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes—

15 (i) a transfer of goods on hire-purchase or other system of payment by instalments but does not include a mortgage or hypothecation of, or a charge or pledge on, goods; and

20 (ii) supply of goods by a society (including a co-operative society), club, firm, or any association, to its members for cash or for deferred payment, or for commission, remuneration or other valuable consideration, whether or not in the course of business.

Explanation.—A sale or purchase of goods shall be deemed to take place inside Delhi if the goods are within Delhi—

(i) in the case of specific or ascertained goods, at the time the contract of sale is made; and

25 (ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation;

30 (m) "sale price" means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately
35 charged;

(n) "tax" means sales tax payable under this Act;

(o) "turnover" means the aggregate of the amounts of sale price receivable, or if a dealer so elects, actually received by

the dealer, in respect of any sale of goods made during any prescribed period in any year after deducting the amounts of sale price, if any, refunded by the dealer to a purchaser in respect of any goods purchased and returned by the purchaser within the prescribed period: 5

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose;

(p) "year" means the financial year.

CHAPTER II

10

INCIDENCE AND LEVY OF TAX

Inci-
dence
of tax.

3. (1) Every dealer whose turnover during the year immediately preceding the commencement of this Act exceeds the taxable quantum, shall, from such commencement, be liable to pay tax under this Act on all sales effected by him on or after such commence- 15
ment:

Provided that a dealer who deals exclusively in one or more classes of goods specified in the Third Schedule shall not be liable to pay any tax under this Act.

(2) Every dealer to whom sub-section (1) does not apply, shall, 20
with effect from the date immediately following the day on which his turnover calculated from the commencement of any year first exceeds within such year the taxable quantum, be liable to pay tax under this Act on all sales effected after that day.

(3) Every dealer who has become liable to pay tax under this 25
Act shall continue to be so liable until the expiry of three consecutive years during each of which his turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of such further period his liability to pay tax shall cease. 30

(4) Every dealer whose liability to pay tax under this Act has ceased under sub-section (3), shall, if his turnover calculated from the commencement of any year again exceeds the taxable quantum on any day within such year, be liable to pay such tax with effect 35
from the date immediately following the day on which his turnover first exceeds the taxable quantum, on all sales effected after that day.

(5) Any dealer whose certificate of registration has been cancelled under sub-section (3) of section 19, shall—

(a) if his turnover calculated from the date of cancellation of such certificate exceeds the taxable quantum on any day within the year, or

(b) if his turnover calculated from the commencement of any subsequent year, exceeds the taxable quantum on any day within that year,

be liable to pay tax under this Act with effect from the date immediately following the day on which such turnover again first exceeds the taxable quantum on all sales effected after that day of goods imported by him from outside Delhi or manufactured by him in Delhi or purchased by him without payment of tax leviable under this Act.

(6) Every dealer shall, notwithstanding that he is not liable to pay tax under the provisions of any of the foregoing sub-sections, be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956, on all sales effected by him or on his behalf within Delhi on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act, 1956.

(7) For the purposes of this Act, "taxable quantum" means—

(a) in relation to any dealer who imports for sale any goods into Delhi....."Nil";

(b) in relation to any dealer who manufactures goods for sale, regardless of the value of goods manufactured.....
....."Ten thousand rupees";

(c) in relation to any other dealer..... "Thirty thousand rupees":

Provided that if the Administrator is of the opinion that having regard to the difficulty in maintaining accounts or other sufficient cause the taxable quantum in respect of any class of dealers falling under clause (b) should be increased, the Administrator may, with the previous approval of the Central Government, and by notification in the Official Gazette, fix in respect of such class of dealers such taxable quantum, not exceeding thirty thousand rupees, as may be specified in the notification.

4. (1) The tax payable by a dealer under this Act shall be levied— Rate of tax.

(a) in the case of taxable turnover in respect of the goods specified in the First Schedule, at the rate of ten paise in the rupee;

(b) in the case of taxable turnover in respect of the goods specified in the Second Schedule, at such rate not exceeding three paise in the rupee as the Central Government may, from time to time, by notification in the Official Gazette, determine;

(c) in the case of taxable turnover in respect of any other goods, at such rate not exceeding seven paise in the rupee as the Central Government may, from time to time, by notification in the Official Gazette, determine:

Provided that the Administrator may, with the previous approval of the Central Government, and by notification in the Official Gazette, add to, or omit from, or otherwise amend the First Schedule or the Second Schedule and thereupon the First Schedule or, as the case may be, the Second Schedule shall be deemed to be amended accordingly:

Provided further that if in respect of any goods or class of goods the Administrator is of opinion that it is expedient in the interest of the general public so to do, the Administrator may, with the previous approval of the Central Government, and by notification in the Official Gazette, direct that the tax in respect of the taxable turnover of such goods or class of goods shall, subject to such conditions as may be specified, be levied at such modified rate not exceeding the rate applicable under this section, as may be specified in the notification.

(2) For the purposes of this Act, "taxable turnover" means that part of a dealer's turnover during the prescribed period in any year which remains after deducting therefrom,—

(a) his turnover during that period on—

(i) sale of goods declared by the Administrator under section 5 to be taxable at the first point in the series of sales in respect of which due tax is shown to the satisfaction of the Commissioner to have been paid;

(ii) sale of goods declared tax-free under section 7;

(iii) sale of goods not liable to tax under section 8;

(iv) sales to a registered dealer—

(A) of goods of the class or classes specified in the certificate of registration of such dealer as being intended for re-sale by him in Delhi or for sale in the course of inter-State trade or commerce or in the course of export out of India or for use by him in the manufacture of goods in Delhi for sale; and

(B) of containers or other materials for the packing of goods other than goods specified in the Third Schedule, intended for sale or re-sale;

9 of 1910.

5 (v) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910 of goods required for use by it in the generation or distribution of such energy;

(vi) such other sales as are exempt from payment of tax under section 58, or as may be prescribed:

10 Provided that no deduction in respect of sales referred to in sub-clause (iv) or sub-clause (v) shall be allowed unless a true declaration duly filled and signed by the registered dealer or, as the case may be, by the owner or any authorised representative of the undertaking to whom the goods are sold and containing the prescribed particulars in the prescribed form is furnished in the prescribed manner
15 by the dealer who sells the goods:

20 Provided further that where any goods specified in the certificate of registration are purchased by a registered dealer for any of the purposes mentioned in sub-clause (iv) but are utilised by him for a different purpose, the price of the goods so purchased shall be allowed to be deducted from the turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer; and

25 (b) the tax collected by the dealer under this Act and shown separately in cash memoranda or bills, as the case may be.

5. Notwithstanding anything contained in this Act, the Administrator may, by notification in the Official Gazette, specify the point in the series of sales by successive dealers at which any goods or class of goods may be taxed.

Powers of Administrator to prescribe points at which goods may be taxed.

30 6. The burden of proving that in respect of any sale effected by a dealer he is not liable to pay tax under this Act shall lie on him.

Burden of proof.

7. (1) No tax shall be payable under this Act on the sale of goods specified in the Third Schedule subject to the conditions and exceptions, if any, set out therein.

Tax-free goods.

35 (2) The Central Government may, by notification in the Official Gazette, add to, or omit from, or otherwise amend the Third Schedule and thereupon the Third Schedule shall be deemed to be amended accordingly.

Certain sales and purchases not liable to tax.

8. Nothing in this Act or the rules made thereunder shall be deemed to impose, or authorise the imposition of a tax on any sale or purchase of any goods when such sale or purchase takes place—

- (i) in the course of inter-State trade or commerce; or
- (ii) outside Delhi; or
- (iii) in the course of import of goods into, or export of the goods out of, the territory of India.

Explanation.—Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase takes place in the manner indicated in clause (i), clause (ii) or clause (iii) of this section. 74 of 1956.

CHAPTER III

SALES TAX AUTHORITIES AND APPELLATE TRIBUNAL

Sales tax authorities.

9. (1) For carrying out the purposes of this Act, the Administrator shall appoint a person to be the Commissioner of Sales Tax. 15

(2) To assist the Commissioner in the execution of his functions under this Act, the Administrator may appoint such other persons with such designations as the Administrator thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole of Delhi and the other persons appointed under sub-section (2) shall have jurisdiction over such areas as the Administrator may specify. 20

(4) The Commissioner and the other persons appointed under sub-section (2) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

Delegation of Commissioner's powers.

10. Subject to such restrictions and conditions as may be prescribed, the Commissioner may by order in writing delegate any of his powers under this Act except those under sub-section (1) of section 44 to any person appointed under sub-section (2) of section 9 to assist him. 25

Power to transfer proceedings.

11. (1) The Commissioner may by order in writing transfer any proceedings or class of proceedings under any provision of this Act from any person appointed under sub-section (2) of section 9 to assist him to any other person so appointed, whether or not such other person has jurisdiction in respect of the area to which such proceeding or class of proceedings relate, and the Commissioner may likewise transfer any such proceedings (including a proceeding already transferred under this section) from any such person to himself. 30 35

(2) The person to whom any proceeding is transferred under sub-section (1) shall proceed to dispose it of as if it had been initiated by himself.

(3) A transfer of any proceeding shall not render necessary the re-issue of any notice already issued before such transfer and the person to whom the proceeding is transferred may, in his discretion, continue it from the stage at which it was left by the person from whom it was transferred.

12. (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute an Appellate Tribunal consisting of one or more members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Act:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(2) Where the number of members of the Appellate Tribunal is more than one, the Central Government shall appoint one of those members to be the President of the Appellate Tribunal.

(3) Subject to the provisions of sub-section (1), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Central Government.

(4) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the Central Government as soon as practicable.

(5) Where the number of members of the Appellate Tribunal is more than one and they are divided, the decision shall be the decision of the majority, if there be a majority; if the members are equally divided the decision of the President shall be final.

(6) Subject to the previous sanction of the Central Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations consistent with the provisions of this Act and the rules made thereunder.

(7) The regulations made under sub-section (6) shall be published in the Official Gazette.

(8) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 35, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

45 of 1860.

5 of 1898.

CHAPTER IV

REGISTRATION, AMENDMENT AND CANCELLATION

10

Registra-
tion.

13. (1) No dealer shall, while being liable to pay tax under section 3, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall make an application for registration within such time, in such manner and to such authority as may be prescribed.

(3) If the said authority is satisfied that the application is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which shall specify the goods or class of goods for the purposes of sub-clause (iv) of clause (a) of sub-section (2) of section 4.

(4) For the removal of doubts it is hereby declared that the goods or class of goods to be specified in a certificate of registration granted under sub-section (3) of this section or sub-section (2) of section 15 shall not include goods referred to in sub-clause (i) or sub-clause (ii) of clause (a) of sub-section (2) of section 4.

Voluntary
registra-
tion.

14. (1) Any dealer, other than a dealer who deals exclusively in one or more classes of goods specified in the Third Schedule, whose turnover during a year exceeds ten thousand rupees may, notwithstanding that he may not be liable to pay tax under section 3, apply for registration under this section.

(2) The provisions of sub-sections (2), (3) and (4) of section 13 shall apply, as far as may be, in relation to registration of a dealer under this section.

(3) Every dealer who has been registered under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

35

(4) The registration of a dealer under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

5 15. (1) Any person who intends to establish a business in Delhi for the purpose of manufacturing goods of a value exceeding ten thousand rupees per year, may, notwithstanding that he is not required to register himself under section 13, apply for provisional registration in such manner and to such authority as may be prescribed.

Provisional registration.

(2) If the said authority, after making such inquiry as it may consider necessary, is satisfied as to the *bona fide* intention of the person making the application, it may grant a provisional certificate of registration on such person furnishing such security as it may consider necessary and shall specify in such certificate the goods or

15 class of goods for the purposes of sub-clause (iv) of clause (a) of sub-section (2) of section 4.

(3) Every person who has been granted a provisional certificate of registration under this section shall, for so long as such certificate

20 is in force, be liable to pay tax under this Act.

(4) A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein.

(5) The authority prescribed under sub-section (1) may, on application made in this behalf in the prescribed manner and subject to

25 such restrictions and conditions as may be imposed by it, extend, from time to time, the period specified in the provisional certificate of registration.

16. (1) No dealer shall, while being liable to pay tax under sub-section (5) of section 3, carry on business as a dealer unless he has

30 obtained a special certificate of registration.

Special registration.

(2) Every dealer required to be registered under sub-section (1) shall make an application for registration within such time, in such manner and to such authority as may be prescribed.

(3) If the said authority is satisfied that the application is in order,

35 it shall, in accordance with such rules as may be prescribed, grant a special certificate of registration to the applicant in the prescribed form:

Provided that the said authority shall not specify in any such certificate the goods or class of goods for the purposes of sub-clause

40 (iv) of clause (a) of sub-section (2) of section 4.

Security
from
certain
class of
dealers.

17. The Commissioner may, if it appears to him to be necessary so to do for the proper realisation of the tax payable under this Act, impose for reasons to be recorded in writing as a condition of the grant of a certificate of registration under section 13, section 14 or section 16 to a dealer or of the continuance, in effect, of such a certificate granted to any dealer, a requirement that the dealer shall furnish sufficient security in the manner prescribed for payment of the tax for which he may be or become liable under this Act. 5

Amend-
ment of
certificate
of regis-
tration.

18. (1) The Commissioner may, after considering any information furnished under this Act or otherwise received, amend, from 10 time to time, any certificate of registration.

(2) An amendment of the certificate of registration made under sub-section (1) shall take effect,—

(a) in the case of a change in the name, ownership or place of business or opening of a new place of business, from the date 15 of the contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under section 33;

(b) in the case of any addition or modification in the description of any goods or class of goods in the certificate of registra- 20 tion, from the date of the contingency if information in that behalf is furnished within the time prescribed under section 33, and from the date of receipt of request for such addition or modification by the Commissioner in any other case;

(c) in the case of deletion of any goods or class of goods, 25 from the date of the order of deletion:

Provided that the Commissioner shall, before amending on his own motion a certificate of registration, give the dealer affected by such amendment a reasonable opportunity of being heard:

Provided further that where in consequence of a change in the 30 ownership of a business the liability to pay tax of a dealer ceases, the amendment of the certificate of registration shall take effect from the date on which information in respect of such change is furnished under section 33.

(3) Any amendment of a certificate of registration under this 35 section shall be without prejudice to any liability for tax or penalty imposed, or any prosecution for an offence under this Act.

Cancella-
tion of
certificate
of regis-
tration.

19. (1) Where—

(a) any business in respect of which a certificate of registra-
tion has been granted to a dealer under this Act is discontinued; 40
or

(b) in the case of transfer of business by a dealer, the transferee already holds a certificate of registration under this Act; or

(c) a dealer has ceased to be liable to pay tax under sub-section (3) of section 3,

5 the Commissioner shall cancel the certificate of registration of such dealer or the transferor, as the case may be, from such date as may be specified by him:

Provided that in a case referred to in clause (a) or clause (b), the certificate of registration shall be deemed to be inoperative with
10 effect from the date of discontinuance or transfer of the business, as the case may be, and in a case referred to in clause (c) from the date on which the dealer's liability to pay tax has ceased, notwithstanding the fact that the order of cancellation is passed or that the particulars of the dealer regarding cancellation are published, as re-
15 quired by section 57, in the Official Gazette, after the aforesaid date:

Provided further that where a dealer has failed to furnish information regarding discontinuance of his business as required by section 33, the Commissioner shall, before cancelling the certificate
20 from any specified date, publish in the Official Gazette a notice of his intention so to do for the information of the dealer and shall hear his objections, if any, before passing the order.

(2) A dealer registered under section 14 may, subject to the provisions of sub-section (4) of that section, apply in the prescribed man-
25 ner not later than six months before the end of a year to the Commissioner for cancellation of his certificate of registration and the Commissioner shall, unless the dealer is liable to pay tax under section 3, cancel the certificate of registration accordingly and such cancellation shall take effect from the end of the year.

30 (3) Notwithstanding anything contained in sub-sections (1) and (2), the Commissioner may at any time for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel the certificate of registration held by such dealer from such date as the Commissioner may specify in this behalf—

35 (a) if the dealer has failed to pay any tax (including any penalty) due from him under any provision of this Act; or

(b) if the dealer holds or accepts or furnishes or causes to be furnished a declaration for the purposes of sub-clause (iv) of clause (a) of sub-section (2) of section 4 which he knows
40 or has reason to believe to be false; or

(c) if the dealer who has been required to furnish security under the provisions of section 17, has failed to furnish such security; or

(d) if the dealer has failed, without sufficient cause, to furnish returns required to be furnished by or under the provisions of this Act for a period of one year; or

(e) if the dealer contravenes or has contravened any provisions of this Act; or

(f) if the dealer has been convicted of an offence under this Act or under the Bengal Finance (Sales Tax) Act, 1941 as in force in Delhi; or

(g) if there is any other reason which in the opinion of the Commissioner warrants such cancellation.

(4) (a) If an order of cancellation passed under sub-section (3) is set aside as a result of an appeal or other proceeding under this Act, the certificate of registration of the dealer shall be restored and he shall be liable to pay tax as if his certificate had not been cancelled.

(b) If any dealer whose certificate of registration has been restored under clause (a) satisfies the Commissioner that tax has been paid by such dealer on sale of goods made to him during the period his certificate of registration was inoperative which, but for the cancellation of such certificate, he would not have paid, then the amount of such tax shall be adjusted or refunded in such manner as may be prescribed.

(5) Every dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him and every dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the order of cancellation.

(6) If a dealer fails to surrender his certificate of registration as provided in sub-section (5), the Commissioner may, by an order in writing and after giving the dealer an opportunity of being heard, direct that the dealer shall pay by way of penalty a sum not exceeding twenty-five rupees for every day of default.

CHAPTER V

RETURNS, ASSESSMENT, RECOVERY AND REFUND OF TAX

20. (1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

Periodical
payment
of tax and
filing of
returns.

5 (2) Every registered dealer and every other dealer who may be required so to do by the Commissioner by notice served in the prescribed manner shall furnish such returns of turnover by such dates and to such authority as may be prescribed.

(3) Every registered dealer required to furnish a return under
10 sub-section (2) shall pay into a Government Treasury or the Reserve Bank of India or in such other manner as may be prescribed, the full amount of tax due from him under this Act according to such return, and shall, where such payment is made into a Government Treasury or the Reserve Bank of India, furnish along with
15 the return a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any registered dealer discovers any mistake or error in any return furnished by him, he may at any time before the expiry of three months next following the last date prescribed for furnishing
20 ing of the return, furnish a revised return, and if the revised return shows a higher amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the excess amount.

25 (5) Every return under this section shall be signed and verified—

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from
30 attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by a *karta*; and where *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such
35 family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

(6) For the purposes of sub-section (5) of this section and section 51, the expression "principal officer" shall have the meaning assigned to it under clause (35) of section 2 of the Income-tax Act, 1961. 5 43 of 1961.

Collection
of tax
only by
registered
dealers.

21. (1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Delhi any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder. 10

(2) Notwithstanding anything contained in sub-section (1), a dealer who has been permitted by the Commissioner to make a lump sum payment under section 26 shall not collect any sum by way of tax on the sale of goods if made during the period to which such lump sum payment relates. 15

(3) Any amount collected by way of tax under this Act in contravention of the provisions of sub-section (1) or sub-section (2) shall be deposited in a Government Treasury or the Reserve Bank of India and notwithstanding anything contained in this Act or any other law for the time being in force, the refund of such amount or any part thereof shall be allowed by the Commissioner in the prescribed manner to the person from whom such amount or part thereof was actually collected. 20 25

Assess-
ment of
tax.

22. (1) The amount of tax due from a registered dealer shall be assessed separately for each year during which he is liable to pay the tax: 25

Provided that when such dealer fails to furnish a return relating to any period of a year by the prescribed date, the Commissioner may, if he thinks fit, assess the tax due from such dealer separately for that period or any other period of such year: 30

Provided further that the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any dealer for a part of a year. 35

(2) If the Commissioner is satisfied that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(3) (a) If the Commissioner is not satisfied that the returns furnished in respect of any period are correct and complete and he 40

thinks it necessary to require the presence of the dealer or the production of further evidence, he shall serve on such dealer in the prescribed manner a notice requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such dealer relies in support of his returns, or to produce such evidence as is specified in the notice.

(b) On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall after considering all the evidence which may be produced, assess the amount of tax due from the dealer.

(4) If a dealer fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(5) If a dealer fails to furnish returns in respect of any period by the prescribed date, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax, if any, due from him.

(6) If, upon information which has come into his possession, the Commissioner is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period has failed to apply for registration within time as required by sub-section (2) of section 13 or sub-section (2) of section 16, as the case may be, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer a reasonable opportunity of being heard, and the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty, in addition to the amount of the tax assessed, a sum not exceeding one and a half times that amount.

(7) No assessment under the provisions of sub-sections (1) to (5) shall be made after the expiry of four years and no assessment under the provisions of sub-section (6) shall be made after the expiry of eight years from the end of the year in respect of which or part of which the tax is assessable:

Provided that where such assessment is made in consequence of, or to give effect to, any order of an appellate or revisional authority or of a court, the period of four years or eight years, as the case may be, shall be reckoned from the date of such order and further that the provisions of sub-section (1) of section 23 regarding time limit for service of notice shall not apply for assessment made under this proviso.

(8) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

(9) In computing the period of limitation for the purposes of this section and section 23, any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded. 5

Turnover
escaping
assessment.

23. (1) Where the Commissioner has reason to believe that the whole or any part of the turnover of a dealer in respect of any period has escaped assessment to tax or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable, or any deduction has been wrongly made therefrom, the Commissioner may— 10

(a) within eight years from the end of the year in respect of which or part of which the assessment is made, in a case where the dealer has concealed, omitted or failed to disclose fully the particulars of such turnover; and 15

(b) within four years from the end of the year in respect of which or part of which the assessment is made, in any other case,

serve a notice on the dealer and after giving the dealer an opportunity of being heard and making such inquiry as he considers necessary, proceed to determine the amount of tax due from the dealer in respect of such turnover, and the provisions of this Act shall, so far as may be, apply accordingly. 20

Explanation.—For the purpose of this section, production before the Commissioner of account books or other evidence from which material evidence could with due diligence have been discovered by the Commissioner will not necessarily amount to disclosure within the meaning of this section. 25

(2) No order of assessment, re-assessment or re-computation shall be made under sub-section (1), after— 30

(a) the expiry of four years or eight years as prescribed in sub-section (7) of section 22; or

(b) the expiry of one year from the date of service of notice under sub-section (1), 35
whichever is later.

Payment
and
recovery
of tax.

24. (1) The amount of tax—

(a) due where returns have been furnished without receipt showing full payment thereof; or

(b) assessed or re-assessed for any period under section 22 or section 23, less the amount, if any, already paid by the dealer in respect of the said period,

shall together with any penalty that may be directed to be paid under any of the provisions of this section, sub-section (6) of section 22, section 47, section 48 or section 49 be paid by the dealer or the person liable therefor into a Government Treasury or the Reserve Bank of India or in such other manner as may be prescribed within thirty days from the date of service of notice of demand issued by the Commissioner for this purpose:

Provided that where the Commissioner has reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in that notice.

(2) On an application made before the expiry of the due date under sub-section (1), the Commissioner may in respect of any particular dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments or grant stay, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) If the amount of tax and penalty (if any) is not paid within the time specified in sub-section (1) or extended under sub-section (2), as the case may be, the dealer or person liable therefor shall be deemed to be in default in respect of that amount.

(4) In a case where payment by instalments is allowed under sub-section (2) and the dealer or the person liable for such payment commits default in paying any one of the instalments within the time fixed under that sub-section, the dealer or the person aforesaid shall be deemed to be in default in respect of the whole of the amount then outstanding and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(5) When a dealer or a person is in default or is deemed to be in default in making payment of tax, he shall, in addition to the amount of arrears payable under the foregoing sub-sections, be liable to pay by way of penalty an amount which in the case of a continuing default may be increased, from time to time, so, however, that

the total amount of penalty does not exceed the amount of tax in arrears:

Provided that before levying any such penalty the dealer or the person aforesaid shall be given a reasonable opportunity of being heard.

5

(6) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

(7) Any amount of tax or penalty in respect of which a dealer or person is in default, or any composition money due under section 26 or section 46 which remains unpaid, shall be recoverable as an arrear of land revenue:

Provided that where security has been furnished by a dealer under sub-section (2) of section 15 or section 17, the Commissioner may, for good and sufficient reasons, realise any amount of tax or penalty remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of the security.

Special
mode of
recovery.

25. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last known address require,—

(a) any person from whom any amount of money is due, or may become due, to a dealer on whom notice has been served under sub-section (1) of section 24; or

25

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the dealer in respect of the arrears of tax and penalty under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purpose of this section, the amount of money due to a dealer from, or money held for or on account of a dealer by, any person, shall be calculated by the Commissioner after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such person.

35

(2) The Commissioner may amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to, in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the dealer, or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

25 26. The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit any dealer to pay in lieu of the amount of tax payable by him under the provisions of this Act, a lump sum determined in the prescribed manner, by way of composition. Lump sum payment of tax.

30 27. (1) If any dealer satisfies the Commissioner that the amount of tax paid by him or on his behalf for any year exceeds the amount payable by him under this Act for that year, he shall, on making a claim in the prescribed form and verified in the prescribed manner, be entitled to refund of the excess either by cash payment or at his option by deduction of such excess from the amount of tax and penalty (if any) due in respect of any other period: Refund.

40 Provided that the Commissioner shall first apply such excess towards the recovery of any amount in respect of which a notice under section 24 has been issued and shall then refund the balance remaining, if any.

Explanation.—When no assessment is made, the due tax paid under section 20 by the dealer shall be deemed to be tax payable under this Act.

(2) Where through death, incapacity, insolvency, liquidation or other cause a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

(3) No claim for refund under sub-section (1) shall be allowed unless it is made within twelve months from the last day of the year for which assessment has been made or within twelve months from the date of service of the notice of the assessment of tax or imposition of penalty (if any) under section 24, whichever is later.

(4) Where as a result of any order passed in appeal or other proceeding under this Act refund of any amount becomes due to the dealer, the Commissioner shall, except as otherwise provided in this Act, refund the amount to the dealer without his having to make any claim in that behalf.

(5) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Commissioner is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Commissioner may withhold the refund till such time as the Commissioner may determine.

(6) In any claim for refund, it shall not be open to the dealer to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same and the dealer shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

(7) Any tax levied and collected under this Act in respect of the sale in Delhi of any declared goods which are subsequently sold in the course of inter-State trade or commerce, shall be refunded to such person, in such manner and subject to such conditions as may be prescribed.

Explanation.—For the purpose of sub-section (7), “declared goods” means goods declared by section 14 of the Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce. 74 of 1956.

28. (1) Where the Commissioner is satisfied that avoidable delay has occurred in the grant of a certificate of registration to a dealer

and that such delay was not wholly due to any fault, omission or negligence on the part of the dealer, the amount of tax, if any, paid on sales of goods made to such dealer which would not have been payable but for the delay in the grant of a certificate of registration
5 as aforesaid, shall be adjusted against any amount payable by the dealer under this Act:

Provided that—

(a) in case the amount of tax so paid by the dealer exceeds his liability to pay any amount under this Act, the adjustment
10 shall be made to the extent of such liability and the balance shall be refunded to the dealer, and

(b) in case there is no liability to pay any amount under this Act, the entire amount of tax paid shall be refunded to the dealer:

15 Provided further that the dealer shall not be entitled to any such adjustment or refund in respect of the goods which are not specified in the certificate of registration granted to him.

(2) No application for adjustment or refund of tax under this section shall be entertained unless it is made within three months
20 from the date on which a certificate of registration is granted to the dealer.

CHAPTER VI

LIABILITY IN SPECIAL CASES

25 29. (1) Where the ownership of the business of a dealer liable to pay tax is transferred absolutely by sale, gift, or otherwise, or transferred by way of lease, and the transferee or lessee carries on such business either in its old name or in some other name,—

Liability in case of transfer of business.

(a) the transferor and the transferee or the lessee, as the case may be, shall jointly and severally be liable to pay the tax and penalty, if any, payable in respect of such business and
30 remaining unpaid at the time of the transfer; and

(b) the transferee or the lessee shall be liable to pay tax on the sales of goods effected by him with effect from the date of such transfer, and shall, if the transferor is a registered dealer, apply within thirty days of the transfer, for amendment of the
35 certificate of registration unless the transferee or the lessee already holds a certificate of registration.

(2) When a dealer liable to pay tax transfers by way of sale or otherwise the ownership of a part of his business, the transferor

shall be liable to pay the tax in respect of the stock in trade so transferred, as if it was a regular sale in the course of business.

Liability
in case of
company
in liqui-
dation.

30. (1) Every person—

(a) who is the liquidator of any company which is being wound up whether under the orders of a court or otherwise; or 5

(b) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator), shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Commissioner. 10

(2) The Commissioner shall after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any 15 tax (including penalty) which is then or is likely thereafter to become, payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hands until he has been notified by the Commissioner under sub-section (2) and on being so notified, 20 shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the 25 purpose of the payment of the tax and penalty (if any) payable by the company or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion 30 of the Commissioner reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that 35 sub-section, he shall be personally liable for the payment of the tax and penalty (if any) which the company would be liable to pay:

Provided that if the amount of any tax (including penalty) payable by the company is notified under sub-section (2), the

personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall
5 attach to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax (including penalty) assessed on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any
10 time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax (including penalty) unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

15 (7) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned
20 to them under clauses (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

31. (1) Where a dealer is a firm or association of persons or a Hindu undivided family, and such firm, association or family has discontinued business—

Liability
in other
cases.

25 (a) tax and penalty (if any) payable under this Act by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

30 (b) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of the tax assessed and penalty imposed and payable by such firm, association or family, whether such tax (including penalty) has been assessed prior
35 to or after such discontinuance, and, subject as aforesaid, the provisions of this Act shall apply as if every such person or partner or member were himself a dealer.

(2) Where it is found that a change has occurred in the constitution of the firm or association, the firm or association as re-constituted as well as partners or members of the firm or association as
40 it existed before the re-constitution, shall jointly and severally be liable to pay any tax (including penalty) due from such firm or association for any period before its re-constitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons, is dissolved, or where the dealer, being a Hindu undivided family, has effected partition with respect to the business carried on by it, and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition. 5

(4) Where a dealer liable to pay tax under this Act dies then,—

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax due from such dealer under this Act; 10

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax and penalty (if any) due from such dealer under this Act, whether such tax and penalty (if any) has been assessed before his death but has remained unpaid, or is assessed after his death. 15

Explanation.—For the purpose of sub-section (4) of this section and section 33, “legal representative” has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908. 20

5 of 1908.

CHAPTER VII

LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMATION

Accounts.

32. Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 20 shall keep a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales) as may be specified therein. 25 30

Information to be furnished regarding change of business.

33. If any dealer to whom the provisions of sub-section (2) of section 20 apply—

(a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business; 35

(b) discontinues his business or changes his place of business or warehouse, or opens a new place of business; or

(c) changes the name or nature of his business or effects any change in the goods or class of goods in which he carries on his business and which is or are specified in his certificate of 40

he shall within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative, shall in like manner, inform the said authority.

34. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer—

Production and inspection of accounts and documents and search of permits.

(a) to produce before him such account books, registers or documents,

(b) to furnish such information, relating to the stock of goods of, or purchases, sales or deliveries of goods by, the dealer or any other information relating to his business, as may be deemed necessary for the purposes of this Act.

(2) (a) All account books, registers and documents relating to the stock of goods of, or purchases, sales and deliveries of goods by, any dealer; and

(b) all goods kept in any place of business or warehouse of any dealer,

shall at all reasonable times be open to inspection by the Commissioner and the Commissioner may take or cause to be taken such copies or extracts of the said account books, registers or documents and such inventory of the goods found as appear to him necessary for the purposes of this Act.

(3) Where, upon information in his possession or otherwise, the Commissioner or any person appointed under sub-section (2) of section 9 to assist him (hereafter in this section referred to as the Sales Tax Officer) has reasonable ground to believe that account books, registers or documents of any dealer may be destroyed, mutilated, altered, falsified or secreted or any sales by that dealer have been or may be suppressed, with a view to evade or attempt to evade payment of tax due under this Act, the Commissioner or the Sales Tax Officer may make an application to the magistrate of the first class having jurisdiction for an order for the seizure of such account books, registers or documents or for checking the sale proceeds of the dealer.

(4) After considering the application and hearing the Commissioner or the Sales Tax Officer, if necessary, the Magistrate may, by order, authorise the Commissioner of the Sales Tax Officer—

(a) to enter, with such assistance as may be required, any place of business or warehouse of the dealer or any other place where such account books, registers or documents or the sale proceeds are kept;

(b) to search that place of business, warehouse or that other place in the manner specified in the order;

(c) break open the lock of any door, box, locker, safe, almirah or other receptacle where the keys thereof are not available; and

(d) to seize such account books, registers or documents, or any inventory of goods as appear to him necessary for the purposes of this Act. 5

(5) The Commissioner or the Sales Tax Officer, as the case may be, shall keep in his custody the account books, registers or documents seized under sub-section (4) for such period not later than the completion of all the proceedings under the Act in respect of 10 years for which those account books, registers or documents are relevant, as he considers necessary, and thereafter shall return the same to the dealer or any other person from whose custody or power they were seized and inform the Magistrate of such return:

Provided that the Commissioner or the Sales Tax Officer may, 15 before returning such account books, registers or documents as aforesaid, place identification marks on them or any part thereof.

(6) Save as otherwise provided in this section, every search or seizure made under this section shall be carried in accordance with the provisions of the Code of Criminal Procedure, 1898 relating to 20 searches or seizures made under that Code. 5 of 1898.

(7) The Commissioner may, for the purposes of this Act—

(a) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters or to furnish statements of accounts and affairs 25 verified in the manner specified by him, giving information in relation to such points or matters as in his opinion will be useful for, or relevant to, any proceeding under this Act;

(b) require any person—

(i) who transports or holds in custody, for delivery to 30 or on behalf of any dealer any goods to give any information likely to be in his possession in respect of such goods or to permit inspection thereof, as the case may be;

(ii) who maintains or has in his possession any account books, registers or documents relating to the business 35 of a dealer to produce such account books, registers or documents for inspection.

5 of 1908.

35. (1) The Commissioner or any person appointed under sub-section (2) of section 9 to assist him shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

Power of Commissioner and other authorities to take evidence on oath, etc.

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents; and

45 of 1860.

10 (c) issuing commissions for the examination of witnesses, and any proceeding under this Act before the Commissioner or any person appointed under sub-section (2) of section 9 to assist him shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.

(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any account books or other documents produced before it in any proceedings under this Act:

20 Provided that a person appointed under sub-section (2) of section 9 to assist the Commissioner shall not—

(a) impound any account books or other documents without recording his reasons for so doing; or

25 (b) retain in his custody any such books or documents for a period exceeding thirty days, without obtaining the approval of the Commissioner therefor.

CHAPTER VIII

APPEALS, REFERENCE AND REVISION

30 36. (1) Any dealer aggrieved by any order, not being an order mentioned in section 37, passed under this Act or the rules made thereunder, may appeal to the prescribed authority:

Appeals.

Provided that where an order, not being an order mentioned in section 37 or made under section 40, is passed by the Commissioner, the dealer may appeal therefrom to the Appellate Tribunal.

35 (2) Any person aggrieved by an order passed in appeal by the prescribed authority may appeal to the Appellate Tribunal against such order.

40 (3) Subject to the provisions of section 54, no appeal shall be entertained unless it is filed within sixty days from the date of service of the order appealed against.

(4) Every appeal filed under this section shall be in the prescribed form and shall be verified in the prescribed manner and in

the case of an appeal to the Appellate Tribunal, shall be accompanied by a fee of one hundred rupees.

(5) No appeal against an order of assessment with or without penalty or against an order imposing the penalty shall be entertained by an appellate authority unless such appeal is accompanied by a satisfactory proof of the payment of tax with or without penalty or, as the case may be, of the payment of the penalty in respect of which the appeal has been preferred:

Provided that the appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of the tax with penalty, if any, or as the case may be, of the penalty, on the appellant furnishing in the prescribed manner security for such amount as it may direct, or

15

(b) on proof of payment of such smaller sum, with or without security for such amount of tax or penalty which remains unpaid, as it may direct.

(6) The appellate authority may, after giving the appellant an opportunity of being heard,—

20

(a) confirm, reduce, enhance or annul the assessment (including any penalty imposed), or

(b) set aside the assessment (including any penalty imposed) and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed, or

25

(c) pass such order as it may think fit.

(7) Save as provided in section 38, an order passed by the Appellate Tribunal on appeal shall be final.

Non-ap-
pealable
orders.

37. No appeal and no application for revision shall lie against—

(a) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act; or

30

(b) an order pertaining to the seizure or retention of account books, registers and other documents; or

(c) an order sanctioning prosecution under this Act; or

35

(d) an interim order passed in the course of any proceed-

ings.

38. (1) Within sixty days from the date of an order passed by the Appellate Tribunal under sub-section (6) of section 36, being an order which affects the liability of a dealer to pay tax or penalty under this Act, the dealer or the Commissioner may, by application in writing, and accompanied where the application is made by a dealer, by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and, subject to the other provisions contained in this section, the Appellate Tribunal shall, as soon as may be after the receipt of such application, draw up a statement of the case and refer it to the High Court:

State-
ment of
Case to
the High
Court.

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) If the Appellate Tribunal refuses to state the case which it has been required to do, on the ground that no question of law arises, the dealer or the Commissioner, as the case may be, may, within thirty days of the communication of such refusal either withdraw his application (and if he does so, any fee paid shall be refunded), or apply to the High Court against such refusal.

(3) If upon receipt of an application under sub-section (2), the High Court is not satisfied as to the correctness of the decision of the Appellate Tribunal, it may require the Appellate Tribunal to state the case and refer it, and on receipt of such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) If the High Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Appellate Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Appellate Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs [including the disposal of the fee referred to in sub-section (1)] shall be in the discretion of the Court.

(7) The payment of the amount of tax and penalty (if any) due in accordance with the order of the Appellate Tribunal in respect of

which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 27. 5

Revision
of orders
prejudi-
cial to
revenue.

39. The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any officer appointed under sub-section (2) of section 9 to assist him, is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment and penalty (if any) imposed, or cancelling the assessment and penalty (if any) imposed and directing a fresh assessment: 10 15

Provided that no proceedings under this sub-section shall be initiated after the expiry of two years from the date of the order sought to be revised.

Revision
of other
orders.

40. (1) In the case of any order, other than an order referred to in section 37 or to which section 39 applies, passed by an officer appointed under sub-section (2) of section 9 to assist him, the Commissioner may, either on his own motion or on an application filed in accordance with such rules as may be prescribed, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the assessee, as he thinks fit: 20 25

Provided that the Commissioner shall not revise any order under this sub-section,—

(a) where an appeal against the order is pending before the appellate authority under section 36; or 30

(b) where, if such appeal lies, the time within which it may be filed has not expired; or

(c) where in the case of the second appeal, the dealer has not waived his right of appeal. 35

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the dealer, the application must be made within one year from the 40

date on which the order in question was communicated to him or the date on which he otherwise comes to know of it, whichever is earlier.

41. (1) The Commissioner or any person appointed under sub-section (2) of section 9 to assist him, may at any time within two years from the date of any order passed by the Commissioner or by that person, as the case may be, on his own motion, rectify any mistake apparent from the record, and shall within a like period, rectify any such mistake which has been brought to his notice by any person affected by such order: Rectification of mistakes.

10 Provided that, no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund, unless the Commissioner or the person appointed under sub-section (2) of section 9 to assist him, as the case may be, has given notice in writing to the person likely to be affected by the order of his intention to do
15 so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by an appellate authority under section 36 as they apply to the rectification of a mistake by the Commissioner.

20 (3) Where any such rectification has the effect of reducing the amount of the tax or penalty the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of the refund,
25 the Commissioner shall recover the amount due from such person in the manner provided for in Chapter V.

CHAPTER IX

OFFENCES AND PENALTIES

42. Whoever—

Offences.

30 (a) holds, produces or accepts a declaration under the first proviso to sub-clause (iv) of clause (a) of sub-section (2) of section 4 which he knows or has reason to believe to be false; or

(b) carries on business as a dealer in contravention of sub-section (1) of section 13 or sub-section (1) of section 16; or

35 (c) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or

(d) being a registered dealer, falsely represents when purchasing any goods or class of goods, that such goods or class of goods are covered by his certificate of registration; or

(e) fails to comply with the provisions of sub-section (5) of section 19; or

5

(f) fails, without sufficient cause, to submit any return as required by sub-section (2) of section 20 or submits a false return; or

(g) contravenes the provisions of section 21 or of sub-section (2) or sub-section (3) of section 56; or

10

(h) fails, when required so to do under section 32, to keep accounts (including records of sales) specified in the notice; or

(i) knowingly maintains or produces incorrect accounts, registers or documents or knowingly furnishes incorrect information; or

15

(j) neglects to furnish any information required by section 33; or

(k) refuses to comply with any requirements made of him under section 34; or

(l) obstructs or prevents any officer making inspection, search or seizure under section 34 or performing any functions under section 56, as the case may be; or

(m) aids or abets any person in the commission of any offence specified in clauses (a) to (l),

shall be punishable with simple imprisonment which may extend to six months, or with fine, or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence: 25

Provided that no prosecution for an offence against this Act shall be instituted in respect of the same facts in respect of which a penalty has been imposed under sub-section (6) of section 19, sub-section (6) of section 22, section 47, section 48 or section 49. 30

43. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 35

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he 40

proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where
 5 an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall
 10 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate, and includes a firm or other association of individuals; and

15 (b) “director”, in relation to a firm, means a partner in the firm.

44. (1) No court shall take cognizance of any offence under this Act or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a magistrate of
 20 the first class shall try any such offence. Cogni-
zance of
offences.

(2) Notwithstanding anything contained in the Code of Criminal
 5 of 1898. Procedure, 1898, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

45. (1) Subject to such conditions as may be prescribed, the Com-
 25 missioner may authorise either generally or in respect of a particular case or class of cases any person appointed under sub-section (2) of section 9 to assist him to investigate all or any of the offences punishable under this Act. Investiga-
tion of
offences.

(2) Every person so authorised shall, in the conduct of such in-
 5 of 1898. 30 vestigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

46. (1) Subject to such conditions as may be prescribed, the Com-
 35 missioner may accept, from any person alleged to have committed an offence under section 42 or under any rules made under this Act, either before or after the commencement of any proceedings against such person in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees or where the offence alleged to have been committed is under any of the clauses (a), (b), Composi-
tion of
offences.

(c), (d) and (f) of that section, not exceeding double the amount of the tax which would have been payable by such person had he complied with the provisions of this Act, whichever is higher.

(2) On payment in full of such sum as may be determined by the Commissioner under sub-section (1),— 5

(a) no proceedings shall be commenced against such person as aforesaid; and

(b) if any proceedings have been already commenced against such person as aforesaid, such proceedings shall not be further proceeded with. 10

Penalty
for
failure to
submit
return.

47. If a registered dealer fails, without reasonable cause, to furnish any return as required by sub-section (2) of section 20 or to pay the tax due according to the return as required by sub-section (3) of that section within the prescribed period, or if a dealer on whom a notice has been served under sub-section (2) of the said section fails likewise to furnish the return within the prescribed period, the Commissioner may, after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax payable, a sum not exceeding one and a half times that amount, or where no tax is payable, a sum not exceeding one thousand 20 rupees. 15

Penalty
for con-
cealment
of sales or
furnishing
inaccurate
particu-
lars or
making
false
representa-
tions.

48. (1) If the Commissioner or any person appointed under sub-section (2) of section 9 to assist him, in the course of any proceedings under this Act is satisfied that a dealer has concealed the particulars of his sales or has furnished inaccurate particulars of his sales and has thereby returned figures below the real amount, he may, after giving the dealer a reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax payable, a sum not exceeding one and a half times the amount of tax which would have been avoided if the figures returned by the dealer were accepted as correct. 25 30

(2) If a person commits an offence under clause (a) of section 42, the Commissioner or any person appointed under sub-section (2) of section 9 to assist him may, after giving that person a reasonable opportunity of being heard, by order in writing, impose upon such person by way of penalty a sum not exceeding one and a half times the amount of tax which would have been payable in respect of the sale of goods involved as if such sale of goods was liable to tax. 35

(3) If a person purchasing goods commits an offence under clause (c) or clause (d) of section 42, the authority which granted

him or as the case may be, is competent to grant him a certificate of registration under this Act, may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty, a sum not exceeding one and a half times the tax which
 5 would have been levied under this Act in respect of the sale to him of the goods, if the offence had not been committed.

49. If any person acts in contravention of the provisions of section 21, he shall be liable to a penalty not exceeding one and a half times the tax wrongly collected:

Penalty for contravening provision regarding collection of tax by dealers.

10 Provided that the Commissioner shall not impose any such penalty unless the person concerned has been given an opportunity of being heard.

CHAPTER X

MISCELLANEOUS

15 50. (1) After a Hindu undivided family has been partitioned, notices under this Act shall be served on the person who was the last manager of the Hindu family, or if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

Service of notice when family is disrupted or firm is dissolved.

20 (2) Where a firm or an association of persons is dissolved, notices under this Act may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

25 51. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Act shall be served in the case of a firm or an association of persons on any person who was a member of such firm or association at the time of its discontinuance or in the case of a company on the principal officer thereof.

Service of notice in the case of discontinued business.

3 52. (1) Any person, who is entitled or required to attend before any authority in connection with any proceeding under this Act, may attend—

Appearance before any authority in proceedings.

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

35 (b) by a legal practitioner or chartered accountant, who is not disqualified by or under sub-section (2); or

(c) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner

shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

(2) The Commissioner may by order in writing and for reasons to be recorded therein disqualify for such period as is stated in the order from attending before any such authority any legal practitioner, chartered accountant or sales tax practitioner— 5

(i) who has been removed or dismissed from Government service; or

(ii) who being a legal practitioner or chartered accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or 10

(iii) who being a sales tax practitioner is found guilty of such misconduct by the Commissioner. 15

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may within one month of the date of communication of such order appeal to the Administrator to have the order cancelled. 20

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided. 25

(6) The Commissioner may at any time *suo moto* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

Change
of an
incumbent
of an
office.

53. Whenever in respect of any proceeding under this Act the Commissioner or any person appointed under sub-section (2) of section 9 to assist him, ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor: 30 35

Provided that the dealer concerned may demand that before the proceeding is so continued, the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.

54. (1) An appellate authority may admit an appeal under section 36 after the period of limitation laid down in that section, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Extension of period of limitation in certain cases.

36 of 1963. 5 (2) In computing the period laid down under sections 36, 38, 39 and 40 the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply.

10 55. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to 15 require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

Returns, etc., to be confidential.

1 of 1872.

20 (2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure—

45 of 1860.

2 of 1947. 25

(a) of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947 or this Act; or

(b) of such facts to an officer of the Central Government or any State Government, as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it; or

30 (c) of any such particulars where such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

35 (d) of any such particulars to a civil court in any suit or proceeding to which the Government or any sales tax authority is a party and which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorizing any sales tax authority to exercise any powers thereunder; or

40 (e) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his

2 of 1899.

powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

(f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment; 5
or

(g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for purpose of audit of tax receipts or refunds; or

(h) of any such particulars relevant to any inquiry into a 10
charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs; or

(i) of such particulars to the officers of the Central Gov- 15
ernment or any State Government for such other purposes, as the Administrator may by general or special order direct.

Setting
up of
check-
posts and
barriers.

56. (1) The Administrator may, by notification in the Official Gazette, set up check-posts or barriers, or both, at any place in Delhi with a view to preventing evasion of tax and other dues payable 20
under this Act.

(2) The owner or person in-charge of a goods vehicle shall carry with him a goods vehicle record, a trip sheet or a log book as the case may be, and a bill of sale or a delivery note containing such particulars as may be prescribed in respect of the goods carried in 25
the goods vehicle and produce the same before any officer in-charge of a check-post or barrier or any other officer as may be empowered by the Administrator in this behalf. The owner or person in-charge of a goods vehicle entering or leaving Delhi shall also file a declaration containing such particulars in such form and in such manner 30
as may be prescribed, before the officer in-charge of a check-post or barrier or before the other officer empowered as aforesaid.

(3) At every check-post or barrier, or at any other place when so required by an officer empowered by the Administrator in this behalf, the driver or any other person in-charge of a goods vehicle 35
shall stop the vehicle and keep it stationary as long as may be required by the officer in-charge of the check-post or barrier or the officer empowered as aforesaid, to examine the contents in the vehicle and inspect all records relating to the goods carried, which are in the possession of such driver or other person in-charge, who 40

shall, if so required, give his name and address and the name and address of the owner of the vehicle as well as those of the consignor and consignee of the goods.

(4) The officer in charge of a check-post or barrier or the officer empowered under sub-section (3) shall have power to seize and confiscate any goods which are under transport by a goods vehicle and which are not covered by a goods vehicle record, a trip sheet or a log book, as the case may be, and a bill of sale or a delivery note and, when the goods vehicle enters or leaves Delhi, the declaration referred to in sub-section (2) also.

(5) Where the declaration made under sub-section (2) is false in respect of the materials furnished therein, the officer in charge of the check-post or barrier or any other officer empowered in this behalf shall have the power to seize and confiscate the goods in respect of which the declaration is false:

Provided that before taking action for confiscation of goods under this section the officer shall give the person affected an opportunity of being heard and make an inquiry in the manner prescribed.

(6) Whenever confiscation is authorised by this section the officer adjudging it shall give the owner or person in charge of the goods an option to pay in lieu of confiscation—

(a) in cases where the goods are such as are specified in the Third Schedule, one thousand rupees or one-half of the estimated value of goods, whichever is less; and

(b) in other cases, without prejudice to recovery of the tax payable, a sum of money equal to ten per cent. of the estimated value of the goods.

57. The Commissioner shall, from time to time, publish in the Official Gazette such particulars as may be prescribed of any dealer who after the commencement of this Act is registered or whose certificate of registration is amended or cancelled, as soon as may be, after such registration, amendment or cancellation.

58. (1) If the Administrator is of opinion that it is necessary or expedient in the public interest so to do, he may, with the previous approval of the Central Government, exempt, by notification in the Official Gazette and subject to such conditions, if any, as he may impose, any specified class of sales by any specified class of dealers from payment of the whole or any part of the tax payable under this Act.

(2) If in respect of any sales which are exempt from payment of tax under sub-section (1), a breach of any of the conditions subject to which such exemption was granted is committed, the dealer responsible for such breach shall be liable to pay tax in respect of all such sales as if no such exemption had been granted.

5

Bar of
suits in
civil
courts.

59. No suit shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Act or the rules made thereunder, and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done 10 under this Act or the rules made thereunder.

Power to
make
rules.

60. (1) The Administrator may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the 15 foregoing powers, such rules may provide for—

(a) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 3 for which liability to pay tax of a dealer shall continue;

(b) the particulars to be contained in a declaration under 20 sub-clause (iv) of clause (a) of sub-section (2) of section 4, the form of such declaration, the authority from whom such forms shall be obtainable and the manner in which such declaration is to be furnished;

(c) the period of turnover, the manner in which the turn- 25 over in relation to sale of any goods under this Act shall be determined, and the sales turnover in respect of which may be deducted under sub-clause (vi) of clause (a) of sub-section (2) of section 4;

(d) the restrictions and conditions subject to which the 30 Commissioner may delegate his powers under section 10;

(e) the authority to whom applications for registration under sections 13, 14, 15 and 16 may be made and the form of such applications and the fees payable in respect thereof;

(f) the procedure for and other matters incidental to re- 35 gistration of dealers and the granting of certificates of registration, and the forms of such certificates;

(g) the intervals at which, and the manner in which, the tax under this Act shall be payable under section 20;

(h) the returns to be furnished under sub-section (2) of section 20 and dates by which, and the authority to whom, such returns shall be furnished;

5 (i) the procedure to be followed for assessment under section 22;

(j) the circumstances in which and the conditions subject to which a dealer may be permitted to pay a lump sum by way of composition under section 26 and the manner of determining such sum;

10 (k) the form in which claims for refund or set-off may be preferred, the manner in which such claims for refund shall be verified, and the refunds or set-off under this Act shall be allowed;

15 (l) the authority to whom information shall be furnished under section 33;

(m) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 34;

20 (n) the form and manner in which, and the authority to whom, appeals against assessment may be filed under section 36, the fee payable in respect thereof and the procedure to be followed by such authority;

25 (o) the form and manner in which applications for revision under section 40 may be filed and the fee payable in respect thereof;

(p) the conditions subject to which the Commissioner may authorize the persons appointed under sub-section (2) of section 9 to assist him to investigate offences under sub-section (1) of section 45;

30 (q) the conditions under which offences may be compounded under section 46;

35 (r) the manner in which, and the time within which, applications shall be made (including fees payable in respect thereof), information furnished, securities given and notices served, under this Act;

(s) any other matter which has to be or may be prescribed.

(3) Any rules made under this Act may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention, with
40 an additional fine which may extend to twenty-five rupees for every

day during which such contravention continues after conviction for the first such contravention.

Rules
and
certain
notifica-
tions to be
laid
before
Parlia-
ment.

61. Every rule made under this Act and every notification issued under clause (b) or clause (c) of sub-section (1) of section 4, the first proviso to sub-section (1) of that section and sub-section (2) of section 7 shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Repeal
and
savings.

62. (1) The Bengal Finance (Sales Tax) Act, 1941, as in force in Delhi (hereinafter referred to as the said Act) is hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder and subject thereto, anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Act and pending at the commencement of this Act, shall, after such commencement, be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which any application, appeal, revision or other proceeding was made or preferred.

Provided that for the purpose of disposing any such revision pending at the commencement of this Act, the period of limitation for a second appeal referred to in sub-section (3) of section 36 of this Act shall be reckoned from the date of such commencement.

- 5 63. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty. Removal of difficulties.
- 10 (2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act.

THE FIRST SCHEDULE

[See section 4(1) (a)]

1. Motor vehicles, including chassis of motor vehicles, motor tyres and tubes, accessories and spare parts of motor vehicles.
2. Motor cycles and cyle combinations, motor scooters, motorettes and tyres and tubes, accessories and spare parts of motor cycles, motor scooters and motorettes.
3. Refrigerators and air-conditioning plants and component parts thereof.
4. Wireless reception instruments and apparatus, radios and radio gramophones, electrical valves, accumulators, amplifiers and loud-speakers and spare parts and accessories thereof.
5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment, lenses, films and parts and accessories required for use therewith.
6. Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use therewith and photographs.
7. All clocks, time-pieces and watches and parts thereof.
8. Iron and steel safes and almirahs.
9. All arms including rifles, revolvers, pistols and ammunition for the same.
10. Cigarette cases and lighters.
11. Dictaphone and other similar apparatus for recording sound and spare parts thereof.
12. Sound transmitting equipment including telephones and loud-speakers and spare parts thereof.
13. Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.
14. Binoculars, telescopes and opera glasses.
15. Gramophones and component parts thereof and records.
16. Motor spirit, aviation spirit and high speed diesel oil.

17. Cosmetics, but not including *kum-kum* and soap.
18. Electrical goods, other than electrical plant, equipment and their accessories including service meters required for generation, transmission and distribution.
19. Pile carpets.
20. Table cutlery.
21. Sanitary goods and fittings.
22. Leather goods except footwear.
23. Glassware, glazedware and chinaware, including crockery.
24. Furniture, including iron and steel furniture.
25. Vacuum flasks.
26. Liquor (foreign liquor and Indian-made foreign liquor).

THE SECOND SCHEDULE

[See section 4(1) (b)]

1. Coal including coke in all its forms.
2. Cotton as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).
3. Iron and steel as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).
4. Jute as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).
5. Oilseeds as defined in section 14 of the Central Sales Tax Act, 1956 (74 of 1956).
6. Hides and skins, whether in a raw or dressed state.
7. Cotton yarn, but not including cotton thread and cotton yarn waste.

THE THIRD SCHEDULE

(See section 7)

EXEMPTED GOODS

1. All cereals and pulses including all forms of rice (except when sold in sealed containers). This shall not include rice in cooked form.
2. Flour including atta, maida, suji and bran (except when sold in sealed containers).

3. Bread.
4. Raw meat, i.e., meat which has not been cured or frozen or cooked.
5. Fresh fish.
6. Fresh eggs.
7. Livestock including poultry.
8. Vegetables, green or dried and vegetable seeds (except when sold in sealed containers).
9. Fresh fruits.
10. Sugar excluding sugar products.
11. Salt.
12. Fresh milk, whole or separated including boiled and sugared milk, and milk products.
13. Edible oil produced in indigenous *kohlu* or *ghani* (without employing electricity or any other power at any stage) when sold by the person owning such indigenous *kohlu* or *ghani* and dealing exclusively in the production of such indigenous *kohlu* and *ghani*.
14. *Dahi*, *lassi*, butter and *khoa*.
15. All varieties of cotton, woollen, nylon, rayon, pure silk or, artificial silk fabrics, but excluding *durries*, *druggets* and *carpets*.
16. Cotton thread.
17. Hand-made paper.
18. School exercise and drawing books.
19. Books and periodicals meant for reading, maps and educational charts.
20. Fuel wood and charcoal used as fuel.
21. Implements used solely by farmers for tilling, sowing, reaping and processing the crops.
22. Cattle feeds including fodder.
23. Electric energy.

24. Fertilizers.
25. Water but not aerated water or mineral water or water sold in bottles or sealed containers.
26. Tobacco as defined under the Central Excises and Salt Act, 1944 (1 of 1944).
27. (i) Country-made shoes When manufactured—
(*juties*). (i) without the use of power, and
(ii) Cane and bamboo handicrafts. (ii) at a place other than a factory as defined in the Factories Act, 1948 (63 of 1948) and sold either by the maker himself or by any member of his family or by a co-operative society consisting wholly of the makers of such articles.
(iii) Earthenwares made by *kumhars*.
28. *Achar* and *murraba* except when sold in sealed containers.
29. *Charkha*, *takli* and *charkha* accessories.
30. Slate, slate pencils, *takhties*, black ink used for *takhties*, writing chalks, crayons, footrules of the type used in schools, *kalam*s (pens used for *takhties*).
31. Betel leaves.
32. *Bardana* including hessian cloth, iron strips and wooden and tin packing, the sale of which is incidental to dealings in any of the other goods mentioned in this Schedule.
33. Cotton padding.
34. Pesticides.
35. Plant protection machines.
36. Ready-made garments made out of *khadi* cloth.
37. Blood for transfusion that is to say fresh human blood or plasma, liquid or dried.

STATEMENT OF OBJECTS AND REASONS

The Bengal Finance (Sales Tax) Act, 1941, was extended to the Union territory of Delhi in 1951. Experience of the working of the Act has revealed certain lacunae in the law which has resulted in evasion of sales tax. In order to ensure proper realisation of sales tax, it is necessary to plug loopholes in the law and tighten up the administrative machinery responsible for the collection of tax.

2. As a result of the revised ceiling fixed by section 51 of the Finance Act, 1966 in respect of declared goods included in the second Schedule, it is proposed to provide a maximum rate of three per cent in respect of such goods within which the effective rate of tax will be fixed by issue of notification by the Central Government.

3. It is also considered that there should not be much divergence in the rates of sales tax as in force in Delhi and the neighbouring States of Uttar Pradesh, Punjab and Rajasthan. With that object in view, it is proposed to provide for the maximum rate of seven per cent. of general sales tax (as against the existing rate of five per cent.) within which the Central Government may, by notification, fix the effective rate of sales tax.

4. The following are some of the other important changes that are proposed to be introduced:—

(i) Liability to pay tax of a dealer shall start from the date immediately following the day on which the turnover of his sales exceeds the taxable quantum. At present, such liability starts only two months after the dealer's turnover exceeds the taxable quantum.

(ii) It is proposed to set up an Appellate Tribunal consisting of one or more members to hear appeals against original orders passed by the Commissioner of Sales Tax. A second appeal against orders passed by the assessing authorities will also lie to the Tribunal.

(iii) The period of limitation for re-assessment of tax on escaped or under-assessed turnover is proposed to be extended from three years to eight years in the case of dealers concealing their turnover or claiming wrong deductions and to four years in other cases.

(iv) Adequate provision is being made for recovery of tax due from a dealer, from any person who holds or may subsequently hold money for or on account of such dealer. Similarly, provisions are sought to be made for assessment and recovery of tax in the case of a transfer of a business, dissolution

of a firm or Hindu undivided family and liquidation of a company.

(v) Provision about search and seizure is also being made in the Bill more or less on the lines of the Companies Act, 1956. This power to make a search or seizure will be exercised only under the orders of a magistrate.

5. The Bill is intended to give effect to these proposals. The provisions of the Bill are further explained in the notes on clauses.

NEW DELHI;

SACHINDRA CHAUDHURI,

The 26th July, 1966.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117
OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.6(9)-ST/64, dated the 20th July, 1966 from Shri Sachindra Chaudhuri, Minister of Finance to the Secretary, Lok Sabha.]

The President having been apprised of the subject matter of the Bill recommends under clauses (1) and (3) of article 117 of the Constitution, the introduction and consideration of the Delhi Sales Tax Bill, 1966 in the Lok Sabha.

*Notes on clauses**Clause 2.—Definitions—*

Sub-clause (c) defines 'business' so as to include any trade, commerce or manufacture or any adventure whether or not carried on with a motive to earn profit and irrespective of the fact whether such profit accrues or not in such trade, commerce, etc.

Sub-clause (e).—The definition of dealer would include Government (both Central and State), a society, club or any association which sells or supplies goods to its members, a manager, factor, broker or any agent and an auctioneer who sells or auctions goods belonging to any principal.

Sub-clause (l).—The definition of 'sale' makes it clear that the supply of goods by a society (including a co-operative society), club, firm or any association to its members would be deemed as a sale whether or not such supply of goods is in the course of business.

Sub-clause (o).—The definition of 'turnover' has been recast to make it clear that the amount of sale price refunded by the dealer to a purchaser in respect of any goods returned by the purchaser within the prescribed period would be deductible.

Clause 3.—Under sub-clause (1), all dealers who during the year immediately before the commencement of the proposed enactment were liable to pay tax will continue to be so liable for payment of tax under the Bill. The liability of any other dealer to pay tax under sub-clauses (2), (4) and (5) will start from the date immediately following the day on which his turnover exceeds the taxable quantum defined in sub-clause (7) instead of after the expiry of a period of two months from that day as provided under the existing law. In so far as dealers who import for sale any goods into Delhi, there is no limit of taxable quantum and all such dealers would be liable to pay tax. In so far as other dealers are concerned, there is no change in the limit of taxable quantum.

Clause 4 provides the rates of tax. Under sub-clauses (1) (b) and (1) (c) the rates of tax on goods specified in the Second Schedule and the general rate of tax will be regulated by issue of notifications, from time to time, subject to the ceiling of three paise and seven paise in a rupee respectively. There is no change in the rates of tax on goods included in the First Schedule.

Sub-clause (2) (a) (iv) (A) seeks to restrict, among others, sales of goods required by a manufacturer for use by him in the manufacture of goods only in Delhi which will be deductible for the purpose of computing his taxable turnover.

Sub-clause (2) (b) provides that tax collected by a dealer from his customers and shown separately in cash memo or bills would be deducted for the purpose of computing the taxable turnover of a dealer.

Clause 5 empowers the Administrator to prescribe the point in the series of sales by successive dealers where tax would be levied. This is an existing provision.

Clause 6 corresponds to section 5B of the present Act.

Clause 7 provides that no tax will be levied on goods specified in the Third Schedule subject to conditions and exceptions laid down therein. The Central Government will have power to add to or omit from or otherwise amend the Third Schedule. This corresponds to section 6 of the present Act.

Clause 8 repeats the provision in section 27 of the present Act.

Clauses 9 and 10.—These clauses provide for appointment of Commissioner and other officers for administering the law. The Commissioner shall have jurisdiction over whole of Delhi and other officers will have jurisdiction over such areas as the Administrator may specify. The Commissioner can also delegate any of his powers other than the one relating to cognizance of offences by courts, to any person appointed to assist him.

Clause 11 is a new provision which is intended to enable the Commissioner to transfer by an order in writing any proceedings from any person appointed to assist him to any other person so appointed or to withdraw the same on his file.

Clause 12.—This new provision is intended to give effect to the proposal to set up an Appellate Tribunal consisting of one or more members which will hear appeals from orders passed by the Commissioner. A second appeal will also lie to the Appellate Tribunal from orders passed in appeal by the authority prescribed under clause 36(1).

The Appellate Tribunal has been empowered to make regulations, with the previous sanction of the Central Government, to regulate the procedure and disposal of its business.

Clauses 13, 14, 15 and 16 provide for registration of dealers. Provision has been made for provisional registration of persons who intend to establish business in Delhi for manufacture of goods of a value exceeding Rs. 10,000 in a year and for special registration of dealers whose registration certificate is cancelled by the Commissioner and whose turnover subsequent to the cancellation of such certificate exceeds the taxable quantum. These clauses correspond to the provisions contained in sections 7, 8, 8B and 8C of the present Act.

Clause 17 corresponds to the existing provision in section 8A of the present Act which enables the Commissioner to demand security before grant of registration certificate to a dealer where he considers it necessary for the proper realisation of the tax.

Clauses 18 and 19 provide for circumstances where the certificate of registration of a dealer may be amended or cancelled by the Commissioner.

Clause 20.—It provides for periodical filing of returns after due verification by dealers and for payment of tax on the basis of such returns into a Government Treasury or the Reserve Bank of India or in any other manner that may be prescribed. Sub-clauses (1) to (4) follow the existing provisions in section 10 of the present Act while sub-clause (5) follows the corresponding provisions in section 140 of the Income-tax Act, 1961.

Clause 21.—Sub-clause (1) permits realisation of tax by registered dealers from their customers.

Sub-clause (3) provides that any amount collected by way of tax in contravention of this Act shall be deposited with the Government Treasury or the Reserve Bank of India and the amount so deposited shall be refundable only to the person from whom it was collected.

Clause 22 deals with the assessment of tax. In sub-clause (7) it has been provided that in respect of cases where a dealer liable to pay tax has failed to apply for registration, the assessment can be made up to a period of 8 years (as against 6 years under the present Act) from the end of the year in respect of which assessment has to be made.

Clause 23 follows the corresponding provision in section 147 of the Income-tax Act, 1961 and would permit re-assessment of tax in respect of turnover which has escaped the tax within a period of 8 years where a dealer has concealed his turnover or claimed wrong deductions and within 4 years in other cases.

Clause 24.—*Sub-clause (1)* provides that tax assessed less any amount paid with the return will be payable within 30 days from the date of service of the notice of demand.

Sub-clause (2) authorises the Commissioner to extend the time for payment or allow payment by instalments or to grant stay.

Sub-clause (7) provides that if a dealer is in default, the amount shall be recoverable as an arrear of land revenue and in case where the dealer has furnished security, the Commissioner may forfeit whole or any part of the security for realisation of the tax or penalty due.

Clause 25.—This clause provides for recovery of tax and penalty due from a dealer from any person who holds or may subsequently hold money for or on account of such dealer.

Clause 26 authorises the Commissioner to compound the tax payable by a dealer. This corresponds to sub-section (1A) of section 5 of the present Act.

Clause 27.—*Sub-clauses (1) to (3)* provide for refund of tax paid in excess by a dealer if claim for such refund is made within 12 months.

Sub-clause (4) provides for *suo moto* refund by the Commissioner where such refund arises as a result of an order in appeal.

Sub-clause (7) permits refund of tax levied on declared goods, if such goods are subsequently sold in inter-State trade.

Clause 28.—This clause provides that if there is an avoidable delay in the grant of certificate of registration to a dealer, the amount of tax, if any, paid on sales of goods to such dealer shall be set-off if a claim for adjustment is made within three months from the date on which certificate of registration is granted.

Clause 29.—Where the ownership of a business is transferred, it is sought to be provided that the transferor and transferee shall be jointly and severally liable to pay tax remaining unpaid at the time of the transfer and the transferee shall be liable to pay tax thereafter.

Clauses 30 and 31.—On the lines of Income-tax Act, 1961, these clauses provide for recovery of tax from the liquidator in the case of a company in liquidation, from the partners of a firm, members of a Hindu undivided family or association jointly or severally in the event of discontinuance of business by such firm, family or

association and from the legal representative in the case of the death of the dealer.

Clauses 32 and 33 provide for maintenance of accounts by a dealer and for furnishing of information to the Commissioner regarding any change in his business within the prescribed time. These correspond to the existing provisions in sections 13 and 16 respectively of the present Act.

Clause 34.—Sub-clauses (1) and (2) provide for production and inspection of account books, registers and documents relating to a business.

Sub-clauses (3) to (6) empower the Commissioner or any person appointed to assist him to seize under an order of the Magistrate of first class any account books, registers or documents of a dealer or to check the sale proceeds of a dealer where the Commissioner or the person appointed to assist him has, upon information in his possession or otherwise, reasonable ground to believe that such account books, etc., may be destroyed, mutilated, altered, falsified or secreted with a view to evade payment of tax. For this purpose the Commissioner may, under the orders of the magistrate aforesaid, enter and search any place of business or warehouse, etc., where such account books, registers, etc., are kept and break open the lock of any door, box, etc., if the keys thereof are not available. Provision has also been made that such searches and seizures will be made in accordance with the provisions of the Code of Criminal Procedure.

Sub-clause (7).—The Commissioner may require any banking company, transport company or any person who maintains any account books of a dealer to furnish any information relating to such dealer or permit inspection of goods or account books, etc., in their possession.

Clause 35 follows the existing provision in section 21A of the present Act. *Sub-clause (1)* authorises the Commissioner to take evidence on oath and to enforce the attendance of any person in connection with any proceeding under the Act.

Sub-clause (2) authorises impounding any account books or other documents by any assessing authority for a period of 30 days and with the approval of the Commissioner for any period exceeding 30 days.

Clause 36.—Sub-clauses (1) to (4) provide for appeal from every original order passed under the Bill to the prescribed authority except in the case of an order by Commissioner where the appeal

shall lie to the Appellate Tribunal. Against an order passed in appeal by the prescribed authority, a second appeal will lie to the Appellate Tribunal.

Sub-clause (5).—Except where permitted by the appellate authority, no appeal will be entertained unless it is accompanied by a satisfactory proof of the payment of the tax or penalty in respect of which appeal is filed.

Clause 37 specifies orders against which no appeal or application for revision will lie.

Clause 38 provides for statement of case on any question of law arising out of an order passed by the Appellate Tribunal to the High Court.

Clause 39 authorises the Commissioner to revise within a period of 2 years any order passed by an authority subordinate to him if such order is prejudicial to the interest of revenue.

Clause 40.—This clause further confers the Commissioner the power to revise an order other than the one referred to in clause 37 or to which clause 39 applies, passed by any officer subordinate to him, on an application by the dealer or by the Commissioner on his own motion. This power can, however, be invoked only where the dealer has waived his right of appeal.

Clause 41.—This new provision is intended to enable the Commissioner, the Appellate Tribunal and the appellate authority under clause 36 to rectify any mistakes within a period of 2 years from the date of the order if such mistakes are apparent from the record of the case. This provision follows section 154 of the Income-tax Act, 1961.

Clause 42.—Failure to surrender certificate of registration on the cancellation of such certificate, the holding, producing or acceptance of declarations under the first proviso to clause 4(2) (a) (iv) which a dealer knows or has reason to believe to be false and aiding or abetting the commission of any offence under the Act are being included as additional offences under this clause.

Clause 43.—In the event of an offence by a company the person responsible to the company for the conduct of the business (as also the company) shall be deemed to be guilty of the offence unless such person proves that the offence was committed without his knowledge or he has exercised due diligence.

Clause 46 permits the composition of offences by the Commissioner. This corresponds to the existing provision in section 23 of the present Act.

Clauses 47 to 49 permit the levy of penalty up to one and a half times the amount of tax involved in the case of (a) a dealer's failure to furnish return, or pay the tax due according to the return (b) concealment of sales or furnishing of inaccurate particulars of the dealer (c) (i) knowingly holding, producing or accepting a false declaration, or (ii) falsely representing that he is a registered dealer when he is not registered, or (iii) falsely representing that any goods are specified in the certificate of registration when such goods are not so specified. Collection of tax from customers in contravention of clause 21 can also be penalised to the extent of one and a half times the tax wrongly collected.

Clauses 50 and 51 lay down the procedure for service of notice where a Hindu undivided family is disrupted or a firm or an association of persons is dissolved or where business is discontinued.

Clause 52.—Sub-clause (1) lays down the procedure according to which a dealer can be represented at a proceeding under this Act.

Sub-clauses (2) to (6) deal with the manner in which the Commissioner may disqualify any person from attending before any authority as also the manner in which such disqualification may be removed.

Clause 53 provides for the continuation of any proceeding under the Act in the event of change of the incumbency of the authority before whom the proceedings are carried on.

Clause 55 provides that returns, accounts, documents, statements, etc., furnished in the course of any proceedings under the Act would be treated as confidential and would not be disclosed except for purposes laid down in sub-section (3).

Clause 56.—This clause follows the existing provision in section 23A of the present Act for the purpose of setting check posts and barriers at any place in Delhi to prevent evasion of tax.

Sub-clause (3) requires the driver or any person incharge of the vehicle to allow inspection of records relating to goods carried by the vehicle.

Sub-clause (4) authorises the officer-in-charge of the check post or barrier to seize and confiscate goods if they are not covered by the goods vehicle record, trip sheet or log book.

Sub-clause (6) gives an option to the owner or person incharge of the goods to pay sum specified in this sub-clause in lieu of confiscation.

Clause 57 requires the Commissioner to publish particulars relating to registered dealers. This corresponds to the existing provision in section 9 of the present Act.

Clause 58 authorises the Administrator to exempt by notification any specified class of sales by any specified class of dealers. Such exemption will be notified by the Administrator with the previous approval of the Central Government.

Clause 59.—This clause provides a bar of suits in a Civil Court for the purpose of setting aside or modifying any assessment made or order passed under the Bill. It also indemnifies the Government or any officer of the Government for anything done or intended to be done in good faith. It corresponds to the existing provisions contained in sections 19 and 24 of the present Act.

Clause 60 empowers the Administrator to make rules for carrying out the purposes of the Act.

Clause 61 provides for the laying of rules made by the Administrator under clause 60 and of notifications issued under clauses 4(1) (b) and (c), first proviso to clause 4(1) and clause 7(2) before each House of Parliament with power for both Houses to rescind or modify any such rule or notification.

Clause 62 is consequential in view of the replacement of the Bengal Finance (Sales Tax) Act, 1941, as in force in Delhi, by the present Bill.

Clause 63 gives powers to the Central Government to make provisions or give directions if any difficulty arises in giving effect to the provisions of the Bill.

FINANCIAL MEMORANDUM

Though the proposed legislation wholly replaces the existing sales tax law applicable in Delhi, it maintains the basic structure and the scheme of the existing Act. The only important change, which has any financial bearing, and which is proposed to be made through this Bill, is the setting up of an Appellate Tribunal *vide* clause 12(1) of the Bill. This would involve, besides appointment of the members of the Tribunal, setting up of an office with a Registrar and some staff. On a rough estimate, the total recurring expenditure on this account is not likely to exceed Rs. 1.20 lakhs per annum, besides a non-recurring expenditure of about Rs. 10,000 on the setting up of the Tribunal's office. This will be in addition to the present estimated annual expenditure (recurring) of rupees 16,47,238 on the present Sales-tax Organisation in Delhi *vide* clause 9(1) and (2) of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12(6) of the Bill empowers the Appellate Tribunal to make regulations, subject to the previous sanction of the Central Government, for the purpose of regulating its procedure and disposal of its business. Clause 60 of the Bill specifies the various matters in respect of which the Administrator has been empowered to make rules. The aforesaid matters are matters of procedure and administrative detail. It is hardly practicable for these matters of detail or procedure to be provided in the Bill itself. The delegation of legislative power is of a normal character.

2. Sub clauses (b) and (c) of clause 4(1) of the Bill empower the Central Government to determine the effective rate of tax on goods specified in the Second Schedule and on goods not specified in any of the Schedules within the ceiling of three paise and seven paise in a rupee respectively. Clause 7(2) of the Bill further empowers the Central Government to add to or omit from or otherwise amend the Third Schedule which enumerates the tax-free goods. Any article or goods omitted from the Third Schedule will become liable to general sales tax unless it is brought on to the First or the Second Schedule by the Administrator with the previous approval of the Central Government by a notification under the proviso to clause 4(1). It is intended that the rate of tax under clauses 4(1) (b) and (c) will be fixed and any modification of or amendment in any of the Schedules appended to the Bill made having regard to the requirements of trade in Delhi and the practice obtaining in the adjoining States of Uttar Pradesh, Punjab and Rajasthan. It is not possible to visualise at this stage what would be the rate applicable in the adjoining States from time to time, or what would be the goods exempt from tax in those States. Having regard to the aforesaid circumstances, the powers delegated are of a nominal character.

BILL No. 61 OF 1966

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India or the services of the financial year 1966-67.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (No. 3) Act, 1966.

Issue of
Rs. 2,18,94,
27,000 out
of the
Consoli-
dated
Fund of
India for
the year
1966-67.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and eighteen crores, ninety-four lakhs and twenty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1966-67 in respect of the services specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
6	Defence Services, Effective— Navy	80,00,000	..	80,00,000
16	External Affairs	3,73,41,000	..	3,73,41,000
17	Other Revenue Expenditure of the Ministry of External Affairs	2,47,29,000	..	2,47,29,000
23	Audit	9,50,000	..	9,50,000
25	Mint	2,000	2,000
30	Other Revenue Expenditure of the Ministry of Finance .	4,21,000	..	4,21,000
34	Ministry of Food, Agriculture, Community Development and Co-operation	3,85,000	..	3,85,000
35	Agriculture	41,65,000	..	41,65,000
66	Other Revenue Expenditure of the Ministry of Iron and Steel	2,00,00,000	..	2,00,00,000
96	Stationery and Printing .	..	4,000	4,000
117	Capital Outlay on Currency and Coinage	2,03,60,79,000	..	2,03,60,79,000
123	Loans and Advances by the Central Government	5,73,50,000	5,73,50,000
137	Capital Outlay on Roads .	..	1,000	1,000
	TOTAL	2,13,20,70,000	5,73,57,000	2,18,94,27,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government, excluding Railways, for the Financial year 1966-67.

SACHINDRA CHAUDHURI.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117
OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 5(9)-B/66, dated the 2nd August, 1966 from Shri Sachindra Chaudhuri, Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the year ending on the 31st day of March, 1967, recommends the introduction of the Appropriation (No. 3) Bill, 1966 in the Lok Sabha and also recommends to the Sabha the consideration of the Bill under article 117(1) and (3) of the Constitution read with article 115 thereof.

2. The Bill will be introduced in the Lok Sabha after all the Supplementary Demands for Grants for 1966-67 have been voted.

S. L. SHAKDHER,
Secretary.